



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by Norwalk Cove Marina, Inc.

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice; closure of administrative appeal decision record.

SUMMARY: This announcement provides notice that the decision record has closed for an administrative appeal filed by Norwalk Cove Marina, Inc. (Appellant) under the Coastal Zone Management Act of 1972 (CZMA). Appellant has requested that the National Oceanic and Atmospheric Administration (NOAA) Administrator, pursuant to authority delegated by the Secretary of Commerce to decide CZMA federal consistency appeals, override an objection by the New York State Department of State to a consistency certification for a proposed project to dispose of dredged material at the Central Long Island Sound Disposal Site.

DATES: The decision record for Appellant's federal consistency appeal of the New York State Department of State's objection closed on December 1, 2021.

ADDRESSES: NOAA has provided access to publicly available materials and related documents comprising the appeal record on the following website: www.regulations.gov, under docket number NOAA-HQ-2021-0059.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, contact Bethany Henneman, NOAA Office of the General Counsel, Oceans and Coasts Section, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910, (301) 300-0027, bethany.henneman@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background Information

On May 19, 2021, the NOAA Administrator, pursuant to authority delegated by the Secretary of Commerce to decide Coastal Zone Management Act (CZMA) federal consistency appeals, received a “Notice of Appeal” filed by Norwalk Cove Marina, Inc., pursuant to the CZMA, 16 U.S.C. 1451 et seq, and implementing regulations found at 15 CFR part 930, subpart H. The “Notice of Appeal” is taken from an objection by the New York State Department of State to a consistency certification for a pending permit application to the U.S. Army Corps of Engineers to dispose of approximately 24,500 cubic yards of dredged material in the Central Long Island Sound Disposal Site. Under the CZMA, the NOAA Administrator may override the New York State Department of State’s objection on grounds that the project is consistent with the objectives or purposes of the CZMA, or otherwise necessary in the interest of national security. To make the determination that the proposed activity is “consistent with the objectives or purposes of the CZMA,” the NOAA Administrator must find that: (1) the proposed activity furthers the national interest as articulated in sections 302 or 303 of the CZMA, in a significant or substantial manner; (2) the national interest furthered by the proposed activity outweighs the activity’s adverse coastal effects, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the proposed activity to be conducted in a manner consistent with the enforceable policies of the applicable coastal management program. 15 CFR 930.121. To make the determination that the proposed activity is “necessary in the interest of national security,” the NOAA Administrator must find that a national defense or other national security interest would be significantly impaired if the proposed activity is not permitted to go forward as proposed. 15 CFR 930.122.

The NOAA Administrator must close the decision record in a federal consistency appeal 160 days after the Notice of Appeal is published in the Federal Register. 15 CFR 930.130(a)(1). However, the CZMA authorizes the NOAA

Administrator to stay the closing of the decision record for up to 60 days when the NOAA Administrator determines it is necessary to receive, on an expedited basis, any supplemental information specifically requested by the NOAA Administrator to complete a consistency review or any clarifying information submitted by a party to the proceeding related to information in the consolidated record compiled by the lead federal permitting agency. 15 CFR 930.130(a)(2), (3).

After reviewing the decision record developed to date, the NOAA Administrator has determined that it is not necessary to stay the closure of the decision record in this appeal. Consistent with the schedule contained in the CZMA and its implementing regulations, the decision record for Appellant's federal consistency appeal of the New York Department of State's objection closed on December 1, 2021. No further information or briefs will be considered in deciding this appeal.

Public Availability of Appeal Documents

NOAA has provided access to publicly available materials and related documents comprising the appeal record on the following website: www.regulations.gov, under docket number NOAA-HQ-2021-0059.

(Authority Citation: 15 CFR 930.130(a)(1))

Adam Dilts,

Chief, Oceans and Coasts Section,

